

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case
16-CA-211894

Date Filed
12-18-2017

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Symphony Society of San Antonio and Symphonic Music for San Antonio, doing business as the San Antonio Symphony separately and as joint employers		b. Tel. No. ATTACHMENT
		c. Cell No. ATTACHMENT
		f. Fax No.
d. Address (Street, city, state, and ZIP code) See ATTACHMENT Section A	e. Employer Representative See ATTACHMENT Section B	g. e-Mail ATTACHMENT
		h. Number of workers employed 73
i. Type of Establishment (factory, mine, wholesaler, etc.) 501(c)(3) tax exempt organizations	j. Identify principal product or service symphony orchestra music	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) : (5) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

During the period of six months before the filing of this charge, specifically including but not limited to December 18, 2017, Symphony Society of San Antonio, an employer within the meaning of the Act, and Symphonic Music for San Antonio, an employer within the meaning of the Act, doing business as the San Antonio Symphony separately and as joint employers, failed and refused to meet and confer in good faith with the Charging Party Union with respect to the negotiation of a collective bargaining agreement, failed and refused to meet at reasonable times with the Charging Party Union with respect to the negotiation of a collective bargaining agreement, and failed and refused to designate representatives authorized to negotiate with the Charging Party Union.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Local 23, American Federation of Musicians

4a. Address (Street and number, city, state, and ZIP code)

427 North Main Avenue
San Antonio, TX 78205

4b. Tel. No. 210-227-3582

4c. Cell No.

4d. Fax No. 210-475-0877

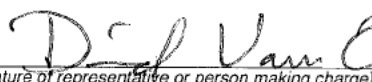
4e. e-Mail
info@musiciansofsa.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) American Federation of Musicians, AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



David Van Os, Attorney

(signature of representative or person making charge)

(Print/type name and title or office, if any)

Tel. No. 210-824-2653

Office, if any, Cell No.
210-332-7070

Fax No. 210-824-3333

e-Mail
dvo@vanoslaw.com

Address 8626 Tesoro Drive, Suite 510, San Antonio, TX 78217

Dec. 18, 2017
(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

ATTACHMENT

Section A

San Antonio Symphony Society
c/o Dr. Alice Viroslav, Board Chair
318 Canterbury Hill St.
San Antonio, TX 78209

Symphonic Music for San Antonio
c/o Dya Campos, President
c/o H.E.B. Corporate Headquarters
646 South Main Avenue
San Antonio, TX 78204

San Antonio Symphony
c/o Tom Stephenson, Executive Director
115 Auditorium Circle, No. B7
San Antonio, TX 78205

Section B

Tom Stephenson, Executive Director
San Antonio Symphony
Tel. (210) 859-9111

Dr. Alice Viroslav, Board Chair
Symphony Society of San Antonio
Tel. (210) 829-8482
Tel. (210) 392-9527

Dya Campos, President
Symphonic Music for San Antonio
(210) 938-8075
(210) 268-9700



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor St Rm 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928



Download
NLRB
Mobile App

December 20, 2017

LOCAL 23, AMERICAN FEDERATION
OF MUSICIANS
427 N MAIN AVE
SAN ANTONIO, TX 78205-1415

Re: Symphony Society of San Antonio and
Symphonic Music for San Antonio, doing
business as the San Antonio Symphony
separately and as joint employers
Case 16-CA-211894

DEAR SIR OR MADAM:

The charge that you filed in this case on December 18, 2017 has been docketed as case number 16-CA-211894. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney EVA C. SHIH whose telephone number is (210)417-4374. The mailing address is 615 E Houston St Ste 559, San Antonio, TX 78205-2039. If this Board agent is not available, you may contact Resident Officer STEVE E. MARTINEZ whose telephone number is (210)417-4062.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board

agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlrb.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

Symphony Society of San Antonio and
Symphonic Music for San Antonio, doing
business as the San Antonio Symphony
separately and as joint employers
Case 16-CA-211894

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December 20, 2017

We can provide assistance for persons with limited English proficiency or disability.
Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Timothy L. Watson
Regional Director

cc: DAVID VAN OS, ATTORNEY
DAVID VAN OS & ASSOCIATES, PC
8626 TESORO DR, STE 510
SAN ANTONIO, TX 78217



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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December 20, 2017

ALICE VIROSLAV, BOARD CHAIR
SYMPHONY SOCIETY OF SAN ANTONIO
318 CANTERBURY HILL ST
SAN ANTONIO, TX 78209-5426

DYA CAMPOS, PRESIDENT
SYMPHONIC MUSIC FOR SAN ANTONIO
646 S MAIN AVE
SAN ANTONIO, TX 78204-1210

TOM STEPHENSON, EXECUTIVE DIRECTOR
SAN ANTONIO SYMPHONY
115 AUDITORIUM CIR, NO B7
SAN ANTONIO, TX 78205-1309

Re: Symphony Society of San Antonio and
Symphonic Music for San Antonio, doing
business as the San Antonio Symphony
separately and as joint employers
Case 16-CA-211894

DEAR DR. VIROSLAV, MS. CAMPOS, MR. STEPHENSON:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

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If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly. **Due to the nature of the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(j) of the Act may be appropriate.** Therefore, in addition to investigating the merits of the unfair labor practice allegations, the Board agent will also inquire into those factors relevant to making a determination as to whether or not 10(j) injunctive relief is appropriate in this case. Accordingly, please include your position on the appropriateness of Section 10(j) relief when you submit your evidence relevant to the investigation.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Timothy L. Watson
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER

16-CA-211894

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)**3. IF A CORPORATION or LLC**A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)

YES NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$**H. Gross Revenues from all sales or performance of services (Check the largest amount)**☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months?** If yes, specify date: _____**10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

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NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Symphony Society of San Antonio and Symphonic Music for
San Antonio, doing business as the San Antonio Symphony
separately and as joint employers

and

Local 23, American Federation of Musicians

CASE 16-CA-211894

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

Symphonic Music for San Antonio

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: MICHAEL BERNARD AND REA FERANDEZ / DYKEMA COX SMITH

MAILING ADDRESS: 112 EAST PECAN STREET, SUITE 1800, SAN ANTONIO, TX 78205

E-MAIL ADDRESS: MBernard@dykema.com and RFerandez@dykema.com

OFFICE TELEPHONE NUMBER: (210) 554-5519 (Michael Bernard) and (210) 554-5227 (Rea Fernandez)

CELL PHONE NUMBER: _____ FAX: (210) 226-8395

SIGNATURE: Michael Bernard w/p RCF

DATE: 1/31/2018

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor St - Rm 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928

January 12, 2018

ALICE VIROSLAV, BOARD CHAIR
SYMPHONY SOCIETY OF SAN ANTONIO
318 CANTERBURY HILL ST
SAN ANTONIO, TX 78209-5426

MICHAEL BERNARD, ATTORNEY
112 E PECAN ST, STE 1800
SAN ANTONIO, TX 78205-1521

REA FERANDEZ, ATTORNEY
112 E PECAN ST, STE 1800
SAN ANTONIO, TX 78205-1521

TOM STEPHENSON, EXECUTIVE DIRECTOR
SAN ANTONIO SYMPHONY
115 AUDITORIUM CIR, NO B7
SAN ANTONIO, TX 78205-1309

Re: Symphony Society of San Antonio and
Symphonic Music for San Antonio, doing
business as the San Antonio Symphony
separately and as joint employers
Case 16-CA-211894

DEAR PARTIES:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

TIMOTHY L. WATSON
REGIONAL DIRECTOR

cc: DY CAMPOS, PRESIDENT
SYMPHONIC MUSIC FOR SAN ANTONIO
646 S MAIN AVE
SAN ANTONIO, TX 78204-1210

Symphony Society of San Antonio and
Symphonic Music for San Antonio, doing
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- 2 -

January 12, 2018

DAVID VAN OS, ATTORNEY
DAVID VAN OS & ASSOCIATES, PC
8626 TESORO DR
STE 510
SAN ANTONIO, TX 78217

LOCAL 23, AMERICAN FEDERATION OF
MUSICIANS
427 N MAIN AVE
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